

Local Project Administration

Environmental Process

(March 2011)



MaineDOT

Outline of Presentation

- Applicable Regulations
- Responsibilities of MaineDOT
- Responsibilities of the Municipality
- Letter 11 and CE Documentation
- Letter 12
- Contacts

Regulations/Process

❖ National Environmental Policy Act (NEPA):

(Applicable regulation 23 CFR 771) - ***All environmental investigations, reviews, and consultations are coordinated as a single process, and compliance with all applicable requirements must be reflected in the environmental document required by this regulation.***

- NEPA is required on all projects with a federal action (funding/permits).
- **MaineDOT** is responsible for completing the NEPA documentation and process when a project has **federal** funding.
- MaineDOT will require information from the Municipality that is addressed in the manual and in **Letter 11**.
- Section 106, Section 4(f), right of way, public meeting, hazardous material review, Section 7, and federal permitting level must be completed before completing NEPA.
- **Municipality** is responsible for completing NEPA when a project has **no federal funding**. (This is accomplished through federal permit.)

Regulations/Process

❖ **Section 106 of the National Historic Preservation Act:** (36 CFR 800) – ***Protection of historic properties.***

- Section 106 is required on all projects with a federal action (funding/permits).
- **MaineDOT** is responsible for completing the Section 106 documentation and process when a project has **federal funding**.
- **Municipality** provides MaineDOT with project plans with proposed right-of-way.
- **Municipality** is responsible for completing Section 106 when a project has **no federal funding**.
- Municipality will need to contact the Maine Historic Preservation Commission.

Regulations/Process

- ❖ **Section 4(f) of the Department of Transportation Act:**
(23 CFR 774) – ***Protection of public parks, recreational areas, wildlife refuges and historic properties.***
 - Section 4(f) is required on **all** projects with **federal** transportation funding. MaineDOT is responsible for completing the Section 4(f) documentation and process.
 - **Municipality** must provide project plans with proposed right-of-way impacts and information on any public parks or recreational areas.
 - Section 106 must be concluded before submitting Section 4(f) documentation to the Federal Highway Administration.

Regulations/Process

❖ **Endangered Species Act (Section 7)** – 50 CFR 402:

- Section 7 consultation is required on **all** projects with a **federal action** (funding/permits).
- If a project is funded by the Federal Highway Administration (FHWA), the FHWA is the action agency and MaineDOT must complete the Section 7 documentation and process.
- **Municipality** provides project plans and scope, construction timing and techniques, and proposed schedule. (See checklist in manual.)
- If a project has only state funding or money from another federal agency, the lead federal action agency is generally the Army Corps of Engineers (ACOE). **Municipality** coordinates with the action agency, typically during the permit application process.

Regulations/Process

❖ Environmental Permits:

- **All** environmental permits are the responsibility of the **Municipality**, which must follow all applicable federal and state laws and regulations.
- MaineDOT can provide permitting guidance to the Municipality.
- Contacts for the Maine Department of Environmental Protection and the Army Corps of Engineers are located in the manual.
- When permits are obtained, the Municipality must provide MaineDOT with an Environmental Certification (Letter 12 in the manual) and with a copy of all state and federal permits/approvals.

Regulations/Process

❖ **Stormwater Permits:**

- **Municipality** must obtain **all** stormwater permits. This includes Erosion and Sedimentation Control requirements, MaineDEP Chapter 500 Stormwater Management Rules, and all MPDES permits.
- Contact MaineDEP to determine required permits. Contact information is located in the manual.
- When permits are obtained, **Municipality** will provide the project manager with an Environmental Certification (Letter 12) and a copy of the approved permits.

Regulations/Process

❖ **Hazardous Materials:**

- MaineDOT is responsible for conducting hazardous material reviews and process.
- **Municipality** will need to provide MaineDOT with project plans with proposed right-of-way impacts.

Regulations/Process

❖ **Dredge Material:**

(38 M.R.S.A. 1301-1319, Maine DEP Chapter 418)

- **Municipality** must obtain all Beneficial Use permits.
- **Municipality** must adhere to state laws and regulations.
- MaineDOT can provide permitting guidance.
- When permits are obtained, the Municipality will provide MaineDOT with an Environmental Certification (Letter 12) with a copy of the approved permits.

Responsibility

TASK	RESPONSIBILITY
National Environmental Policy Act (NEPA)	Federal funding - MaineDOT with assistance from Municipality
	No federal funding - Municipality through federal permit
Section 106 of the Historic Preservation Act (Section 106)	Federal funding - MaineDOT with assistance from Municipality
	No federal funding - Municipality through federal permit
Section 4(f) of the Department of Transportation Act	MaineDOT with assistance from Municipality
Section 7 of the Endangered Species Act (Section 7)	Federal funding - MaineDOT with assistance from Municipality
	No federal funding - Municipality through federal permit
Hazardous Materials	MaineDOT with assistance from Municipality
Dredge Materials	Municipality
Environmental Permits	Municipality
Natural Resource (wetlands, streams, fisheries, etc)	Municipality
Mitigation	Municipality
All Stormwater Permits (Ch500, ESC law, MPDES)	Municipality

NEPA - Categorical Exclusions

Checklist Questions for FHWA funded projects

- **A. Public Involvement**
- **B. right-of-way**
- **C. Hazardous Materials**
- **D. Section 106**
- **E. Section 4(f)/6(f)**
- **F. Wetlands**
- **G. Water Quality**
- **H. Scenic Byways**
- **I. Endangered Species**
- **J. Noise**
- **K. Air Quality**
- **L. Natural Resources**
- **M. Other**

Categorical Exclusions

- The Municipality must fill out Letter 11 and the Letter 11 Worksheet (see manual) for federally funded projects and submit to the MaineDOT Project Manager.

Letter 11 Worksheet

(Located in manual)

- 1) Public Involvement - Is there **substantial public opposition**? *The answer should become apparent at the public meeting approving the project.* Documentation: Approved Work Plan, public hearing records, letters to municipalities, Council/Selectperson or Planning Board meeting minutes, and/or LPA Letter 16 in manual.
- 2) Right-of-Way - Does action include **a residential or commercial displacement or acquisition of property rights** that will result in **substantial abutter impacts**? Documentation: Existing and/or proposed right-of-way plan and/or LPA Letter 17 in manual.
- 3) Wetlands - Does action require an **Army Corps of Engineers Individual Permit**? Documentation: Copy of Federal Permit or LPA Letter 12 in manual.
- 4) Section 4(f) or 6(f) - Does action require **temporary or permanent acquisition of property rights of any property protected by Section 4(f)** of the Department of Transportation Act (*publicly owned parks, recreation areas, wildlife and waterfowl refuges, or historic sites*). Documentation: Existing and proposed right-of-way plan or LPA Letter 17 in manual.

Environmental Approvals

(Located in manual)

- ❖ Municipality must fill out Letter 12 and submit to Maine DOT Project Manager with copy of all permits/approvals.

Reminders

- All Environmental Approvals – including the Letter of Environmental Certification (Letter 12) – are required before the advertisement of a project.
- Right-of-way negotiations with property owners cannot begin until the Categorical Exclusion (CE) has been certified.
- Environmental approvals will take approximately 2 to 6 months from the time that the Municipality has plans, proposed right-of-way and submitted Letter 11. Project schedules should be planned accordingly.
- **The MaineDOT Environmental Office suggests that the Municipality hold a meeting with the MaineDOT Project Manager and Environmental Office at project kick-off.** This will assist with project schedule, environmental needs and responsibility, and project specific questions.

MaineDOT Environmental Office Contacts

Josh Nichols (Environmental Team Leader, Permits, NEPA)	592-3107 (joshua.nichols@maine.gov)
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